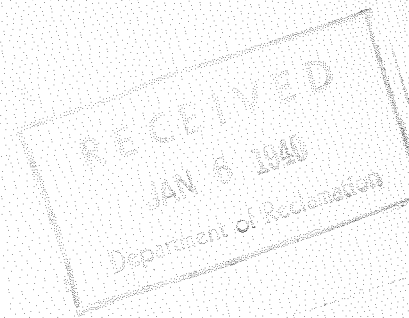


*Inter-State
36-61*

F. A. MILLER
ATTORNEY-AT-LAW
ST. ANTHONY, IDAHO

January 5th, 1940.



Mr. James Spofford,
Commissioner of Reclamation,
Boise, Idaho.

Dear Mr. Spofford:

The Board of Directors of the Fremont-Madison Irrigation District desire to construct or have constructed a small reservoir on the Squirrel Creek. A survey has been made by the United States Reclamation Department through its resident engineer located at Ashton.

quote

This small reservoir is badly needed to supply the lands lying ^{under} what are known as the Boone Creek canal and the Squirrel Creek canal. The Denver office ^{do} not take kindly to this project and urge ^{one} of the objections that in order to fill such a reservoir on Squirrel Creek, it would be necessary to divert water from South Boone Creek. It has been pointed out to the Chief Engineer at Denver that the lands embraced within the boundaries of the Fremont-Madison Irrigation District, under the above named canals, will have to be eliminated unless such a reservoir is constructed on Squirrel Creek but that with the storage that could be afforded through a small reservoir so located and the diversion of the waters of South Boone Creek, these lands could be supplied. But, as stated, the objection is raised that the diversion of Boone Creek would be in Wyoming.

quote

You will recall that when we held a conference with Engineer Bishop on Boone Creek in Squirrel Meadows at the point where the Boone Creek people had diverted the waters of Boone Creek into Squirrel Creek that Mr. Bishop had agreed that if the rights of the Wyoming users were not disturbed there would be no objection whatever on the part of Wyoming or his office to the diversion of the waters of South Boone Creek, if a proper gate was placed so that the stream flow could be regulated and the game fish prevented from getting into to diversion ditch.

quote

We wish something to submit to the Reclamation Department to show that there will be no objection on the part of Wyoming to this diversion. I think you will recall that Mr. Bishop agreed that it was only a diversion from one stream to another and in no way asking the State of Wyoming to grant a water right to the Idaho users. If you will refer to the acts passed and adopted at the extra-ordinary session of the State Legislature in 1933, you will find under the approval by the Idaho legislature of the so-called Snake River compact

under Article two, paragraph two, a statement which, of course, was found as a fact by Mr. Walter, commissioner for the United States, Mr. True, commissioner for Wyoming, and Mr. Martin, commissioner for Idaho, that the waters in the Fall River section could not be used in Wyoming for irrigation.

In view of what I am giving you and the desire of the Board, we would appreciate very much if you would take up with Mr. Bishop, at once, our problem and secure from him, if possible, a letter outlining and affirming what he gave us at our conference in Squirrel Meadows last July.

Thanking you very much for the many courtesies extended by your office, I desire to remain,

Yours very truly,


F. A. MILLER.

FAM.ls.

January 11, 1940

Jan. 11, 1940

L. C. BISHOP

"We wish something to submit to the Reclamation Department to show that there will be no objection on the part of Wyoming to this diversion. I think you will recall that Mr. Bishop agreed that it was only a diversion from one stream to another and in no way taking the State of Wyoming water rights to the Idaho waters. It you will recall that the act was passed and adopted at the extra-ordinary session of the State Legislature in 1903, you will find under the signature of the so-called Snake River Compact water

Mr. L. C. BISHOP,
State Engineer,
Cheyenne, Wyoming.

Dear Mr. Bishop:

On January 6 I received a letter from Mr. F. A. Miller, Attorney at Law, at St. Anthony, relative to the construction of a small dam on Squirrel Creek in Wyoming. Three paragraphs of Mr. Miller's letter state as follows:

"This small reservoir is badly needed to supply the lands lying under what are known as the Boone Creek canal and the Squirrel Creek canal. The Denver office does not take kindly to this project and urge as one of the objections that in order to fill such a reservoir on Squirrel Creek, it would be necessary to divert water from South Boone Creek. It has been pointed out to the Chief Engineer at Denver that the lands embraced within the boundaries of the Fremont-Madison Irrigation District, under the above named canals, will have to be eliminated unless such a reservoir is constructed on Squirrel Creek but that with the storage that could be afforded through a small reservoir so located and the diversion of the waters of South Boone Creek, these lands could be supplied. But, as stated, the objection is raised that the diversion of Boone Creek would be in Wyoming.

"You will recall that when we held a conference with Engineer Bishop on Boone Creek in Squirrel Meadows at the point where the Boone Creek people had diverted the waters of Boone Creek into Squirrel Creek that Mr. Bishop had agreed that if the rights of the Wyoming users were not disturbed there would be no objection whatever on the part of Wyoming or his office to the diversion of the waters of South Boone Creek, if a proper gate was placed so that the stream flow could be regulated and the game fish prevented from getting into the diversion ditch.

L. C. BISHOP

Jan. 11, 1940

"We wish something to submit to the Reclamation Department to show that there will be no objection on the part of Wyoming to this diversion. I think you will recall that Mr. Bishop agreed that it was only a diversion from one stream to another and in no way asking the State of Wyoming to grant a water right to the Idaho users. If you will refer to the acts passed and adopted at the extra-ordinary session of the State Legislature in 1933, you will find under the approval by the Idaho legislature of the so-called Snake River compact under Article two, paragraph two, a statement which, of course, was found as a fact by Mr. Walter, commissioner for the United States, Mr. True, commissioner for Wyoming, and Mr. Martin, commissioner for Idaho, that the waters in the Fall River section could not be used in Wyoming for irrigation."

On behalf of the best interests of the Fremont-Madison Irrigation District, hereinabove outlined and which will not interfere with present water rights in your state, I trust that you will be able to furnish a statement confirming this request.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/jr

"You will recall that when we held a conference with Engineer Bishop on Boone Creek in Spaulding Meadows at the point where the Boone Creek people had diverted the waters of Boone Creek into Spaulding Creek that Mr. Bishop had agreed that if the rights of the Wyoming users were not disturbed there would be no objection whatever on the part of Wyoming or his office to the diversion of the waters of South Boone Creek, if a proper gate was placed so that the stream flow could be regulated and the gates then prevented from getting into the diversion ditch.

State of Wyoming



STATE ENGINEER'S OFFICE

Cheyenne

July 5, 1940

Mr. James Spofford
Commissioner of Reclamation
Boise, Idaho

Dear Mr. Spofford:

This will acknowledge receipt of your letter of July 2, in which you enclose a letter from Mr. Crandall, Watermaster of Water District No. 36 of your state, and in which you request my opinion concerning the matter of the distribution of water from Teton Creek.

Upon receipt of your letter, I called Mr. James Greenwood, Attorney for the Teton users and inquired of him concerning the status of this agreement.

Mr. Greenwood informed me that he has received the agreement containing the approval of all concerned and that Judge Kennedy has been consulted and agrees to enter his order in accordance with the stipulation as signed by the water users.

It is my opinion that we should go ahead and operate under this agreement the same as though it had been entered, as everything has now been agreed upon between the users of the two states and the final order of the Court merely awaits the formal draft and acceptance by the attorneys from both sides. The Water Commissioner of the Teton District is being so advised.

Very truly yours,

A handwritten signature in cursive script, reading "L. C. Bishop".

L. C. BISHOP
State Engineer

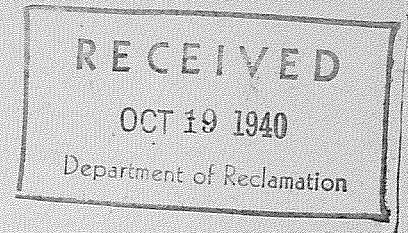
LCB/eb

cc: Mr. L. Y. Matthews
Water Commissioner
District No. 13



TETON CREEK

October 9, 1940



James A. Greenwood
Attorney at Law
Cheyenne, Wyoming

Dear Mr. Greenwood:

Replying to yours of the 7th, I am unable to reconcile the suggested change in the decree with the facts as stated in the stipulation. In other words, the stipulation signed by all of the parties and being the second and last stipulation set out in the proposed decree, was and is to the effect that the Southside Canal is to furnish water to the users taking from it in both Wyoming and Idaho from that part or portion of the stream flow awarded to Wyoming and, if I read the stipulation correctly, it would make no difference whether the stream flow was above or below 90 second feet.

The proposal set out in your letter, it seems to me, would shut these users out of the use of any water, except when the stream flow of Teton Creek fell below 90 second feet. If I read and understand your letter, the paragraph of the proposed decree would read as follows:

"It is agreed by the Wyoming users that what is known as the Southside Canal, which canal supplies water to both states, Wyoming and Idaho, appropriators along the boundary line of the states, and which has been granted Wyoming per it No. 7420 for the diversion of water from Teton Creek, in Wyoming, is to be considered as a Wyoming diversion and the users in both Wyoming and Idaho supplied with water from it are to be furnished and supplied from the part or portion of the stream flow of said Teton Creek awarded Wyoming, (suggested addition) only when the stream flows supplying said appropriators are less than 90 cubic feet per second of time."

Instead of clarifying it, it seems to me that it does just the reverse. As I have previously stated, it strikes me as an absolute restriction on the owners and users from the Southside Canal, if the addition is made, and they would be entitled to no water, except when the stream flow is less than 90 cubic feet per second.

Again, I do not understand why the city or village of Briggs should be injected into the case. If the municipality has a water right they, of course, according to the terms of the decree as now

James A. Greenwood
October 9, 1940
Page 2

proposed, would be subject to receiving water according to their proper priority from the portion or waters within the state of Idaho being regulated by the proper officials of the state of Idaho.

May I further call your attention to the fact that this insertion is sought to be placed in a part of the stipulation already signed by all of the parties to this action.

I await your further reply.

Yours very truly,

F. A. Miller

fam.en

F. A. MILLER
ATTORNEY-AT-LAW
ST. ANTHONY, IDAHO

October 18, 1940

RECEIVED

OCT 19 1940

Department of Reclamation

Mr. James Spofford
Commissioner of Reclamation
Boise, Idaho

Dear Mr. Spofford:

Re: Teton River litigation

Following our conversation of yesterday, in which I told you that Mr. Greenwood, attorney for the Wyoming users, had made certain suggestions regarding the proposed decree, have to state that he suggested an addition on page 24, by inserting after the word "Wyoming", at the close of the second paragraph, the following, -

"only when the stream flows supplying said appropriators are less than 90 cubic feet per second of time,"

which would make the paragraph read as follows:

"It is agreed by the Wyoming users that what is known as the Southside Canal, which canal supplies water to both states, Wyoming and Idaho, appropriators along the boundary line of the states, and which has been granted Wyoming permit No. 7420 for the diversion of water from Teton Creek, in Wyoming, is to be considered as a Wyoming diversion and the users in both Wyoming and Idaho supplied with water from it are to be furnished and supplied from the part or portion of the stream flow of said Teton Creek awarded Wyoming, (suggested addition) only when the stream flows supplying said appropriators are less than 90 cubic feet per second of time."

He further suggested that there be inserted after the word "appropriator" at the end of the first paragraph, on the same page, a provision to the effect that the water furnished to the town of Driggs, Idaho, is to be charged to Idaho's share in the waters of these streams. To this letter, I replied as per copy of my letter enclosed.

I was hopeful that after you called on Young and Potter, you would come back to the office and inform me what their objections were, or complaint to the distribution of waters and Fall the Fall River canal was being deprived of its rights.

Yours truly,
F. A. Miller

74 D-36
8-12-40

October 23, 1940

Mr. L. C. Bishop
State Engineer
Cheyenne, Wyoming

Dear Mr. Bishop:

While at St. Anthony, Idaho, last week I interviewed Mr. F. A. Miller, Attorney at Law, who represented many of the canal companies and water users in the water suit that was brought before the District Court of the United States of the District of Wyoming, and on which the court has not rendered a decree.

Mr. Miller is very much disappointed that the stipulation which was prepared for the court and signed by all parties, plaintiff and defendants, in the case has not been presented to the court. Mr. Miller discussed several matters that Mr. Greenwood, Attorney, for the defendants has taken up with him during the past several weeks, and to give you as complete a memorandum as is available, I herewith enclose a copy of Mr. Miller's letter to Mr. Greenwood, dated October 9, 1940, and also a copy of Mr. Miller's letter to this office as of October 18, 1940, which is self explanatory. This office would appreciate anything that you can do to bring this stipulation before the court, as I believe it only awaits the signature of Mr. Greenwood.

Thanking you for your cooperation and past favors, I remain,

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/nw
Encl.

State of Wyoming



STATE ENGINEER'S OFFICE

Cheyenne

November 30, 1940

RECEIVED
DEC 2 1940
Department of Reclamation

Mr. James Spofford
Commissioner of Reclamation
Boise, Idaho

Dear Mr. Spofford:

At the recent election Wyoming voters amended the constitution to allow investment of State funds in internal improvements and as our Legislature will be called upon to amend our law providing for a Planning and Water Conservation Board, I am going to ask for a copy of your law of laws pertaining to the above mentioned subject.

As I have not heard any of the details of the recent election in Idaho, I would be pleased to have you write me about it. All I read in the papers was to the effect that you had elected a democratic Governor and I am wondering if this will effect your status.

Wyoming voted a majority for Roosevelt and the New Deal but our State Legislature has a majority of six (6) Republican and the Legislature is a tie of twenty-eight to twenty-eight.

Recently I filled out a questionnaire from an Idaho organization concerning the appointment, term of office, and compensation of the State Engineer in Wyoming. I believe this organization had in mind the passing of a law in Idaho making the Commissioner of Reclamation a Civil Service position and in answering the questionnaire I explained that where the term was six years, I would prefer it to Civil Service but in case of a two or four year term the Civil Service would be preferable.

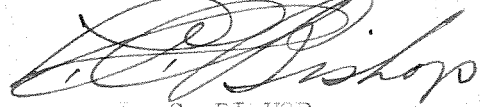
I like our law better than Civil Service as a six year term gives an Engineer a chance to get on to the work and do something worthwhile and with Civil Service it seems to me that the tendency is too much on the order of a dictatorship and in some cases it might be extremely hard to get rid of an incompetent man. However, if you are to receive the Civil Service appointment in case such a law is enacted I would favor it in any case.

Mr. James Spofford
Commissioner of Reclamation
Boise, Idaho
Page 2

Let me hear from you about your own status and your
Legislature and all and tell me if your name ever came to the head
of the list on the chain letter. I sent my dollar out the day it
was received and know of two of those whose names I placed on the
list who did the same but none of us heard from it.

With very best wishes, I am

Sincerely yours,

A handwritten signature in dark ink, appearing to read "L. C. Bishop". The signature is fluid and cursive, with the first name "L." and last name "Bishop" clearly distinguishable.

L. C. BISHOP,
State Engineer.

LCB/ch

36-C Interstate
24-7-40
December 4, 1940

Mr. L. C. Bishop
State Engineer
Cheyenne, Wyoming

Dear Mr. Bishop:

In your recent letter to this office you request a copy of the law creating the Idaho State Water Conservation Board. I am very sorry, but I cannot furnish you a copy of the law creating this board, as it maybe found only in the bound copy of the 1937 Session Laws. For your information I am enclosing the First Biennial Report of the Water Conservation Board, and on page seven of said report you will find a memorandum relating to the law which will probably give you all the information that you desire.

I might further state that this water board was done away with by an act of the 1939 Legislature and their duties accrued to this office, so at the present time we do not have any Water Conservation Board, but we do have a committee of twenty six men appointed by the Governor which is known as Idaho Reclamation Advisory Committee. This committee has no legal authority and its members do not get any salary or expenses, but the function of this committee has been very helpful during the last two years to this office, and their recommendations concerning investigation and construction of the water facilities of the State have been recognized by the Federal Agencies.

Relative to the term of office of the State Commissioner of Reclamation, I will state that the Commissioner is appointed by the Governor for a period of two years, and it has been the custom in this state for the Commissioner to retire with the administration that appointed him, and since there will be a change in administration after the first of the year it is very likely that my services with the state will be discontinued. I agree with you that the term of office for State Engineer or Commissioner should be at least six years, and I believe that the appointment as made by your state would be very satisfactory to the irrigation interests in that state, as it would tend to stabilize the conditions in such an office.

L. C. Bishop

-2-

December 4, 1940

My experience relative to the circular letter will duplicate yours, as I have not heard from the matter since I sent the letters out, except that ^I got my \$1.00 back. It was of some interest in getting the letters out, but financially it will ^{not} be a paying proposition.

Sincerely yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/nw

State of Wyoming



STATE ENGINEER'S OFFICE

Cheyenne

December 6, 1940

Misc
Correspondence

RECEIVED

DEC 9 1940

Department of Reclamation

Hon. James Spofford
Commissioner of Reclamation
State of Idaho
Boise, Idaho

Dear Mr. Spofford:

Many thanks for your letter of December 4, 1940, and the very pertinent information contained therein and also for the copy of the report of the Idaho Water Conservation Board.

The secretary of our conservation board has in mind a setup similar to the one outlined in your letter, and this information is more than welcome at this time.

Very truly yours,

A handwritten signature in cursive script, reading "L. C. Bishop".

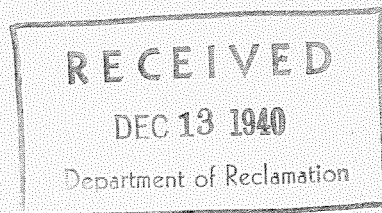
L. C. BISHOP
State Engineer

LCB:LRT



F. A. MILLER
ATTORNEY-AT-LAW
ST. ANTHONY, IDAHO

December 12, 1940



Mr. James Spofford
Commissioner of Reclamation
Boise, Idaho

Dear Mr. Spofford:

I am enclosing for your signature a memorandum which is supposed to clarify certain points in the proposed decree which was based upon the signed agreement between the litigants and others in the suit seeking adjudication of the waters of Teton creek and its tributaries.

If you will sign this memorandum and return to me, I think I will now be in a position to close the case and seek a decree from the Federal Government. The enclosed was sent to me by Mr. Bishop, ^{the} Wyoming engineer.

Yours truly,


F. A. Miller

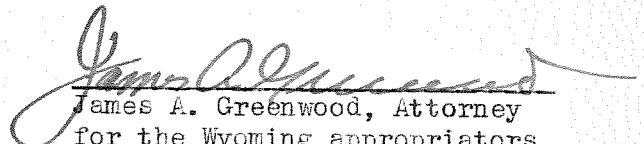
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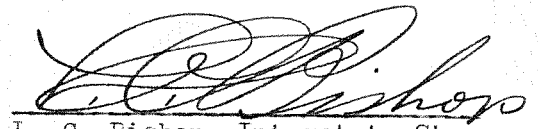
Enclosure

THE FOLLOWING MEMORANDUM IS TO CLARIFY CERTAIN POINTS IN THE AGREEMENT BETWEEN THE IDAHO AND WYOMING APPROPRIATORS DIVERTING WATER FROM TETON CREEK AND TRIBUTARIES.

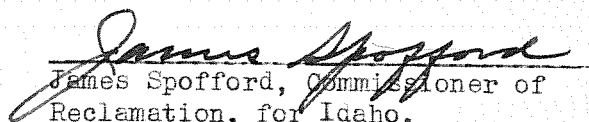
1. That at all times when the flow of the water in Teton Creek in Wyoming exceeds ninety (90) cubic feet per second of time and is less than one-hundred and seventy (170) cubic feet per second of time, the parties to this settlement both in Idaho and Wyoming are to be limited to the diversion of not more than one (1) cubic foot of water per second of time for each fifty acres of land (one (1) inch per acre as expressed by some) and at all times when the stream flow in Wyoming is less than ninety (90) cubic feet per second of time the available supply is to be divided equally between the two States and same to be administered by each State in accordance with their existing laws.
2. That the water supply for the town of Driggs, Idaho is to be taken from the portion of water allotted to Idaho.

The undersigned agrees to the foregoing interpretation of the portion of the agreement referred to.


James A. Greenwood, Attorney
for the Wyoming appropriators.
Signed - December 10, 1940


L. C. Bishop, Interstate Streams
Commissioner for Wyoming.
Signed - December 10, 1940

F. A. Miller, Attorney for Idaho
Appropriators.
Signed - _____, 1940


James Spofford, Commissioner of
Reclamation, for Idaho.
Signed - _____, 1940

Interstate
36

December 14, 1940

Mr. Frank A. Miller
Attorney at Law
St. Anthony, Idaho

Dear Mr. Miller:

I am in receipt of your December 12th letter enclosing a memorandum to clarify certain points in the agreement between the Idaho and Wyoming appropriators diverting water from Teton Creek and tributaries.

I am not entirely satisfied with paragraph one of this memorandum, as it seems to me this statement should include the following sentence from the stipulation that was originally agreed upon "It being understood and agreed that all ditches diverting in Wyoming, and now having legal appropriations of water in Wyoming and/or Idaho to be supplied from the half of said stream flow awarded to Wyoming, excepting, therefore, the Grand Teton canal which, for the sake of this agreement although having its diversion works in the in the State of Wyoming is to be considered as a Idaho appropriation."

Paragraph two in this memorandum states that the water supply of the town of Driggs is to be taken from the portion of water allotted to Idaho, and I believe there has been no misunderstanding relative to this diversion. As I understand it the town of Driggs has a pipe line which diverts from Teton Creek about one and one-half miles inside the Wyoming line.

I certainly am very anxious to see you get this matter clarified and will do anything within my authority to expedite the same.

I certainly appreciate a letter from you giving further ideas in regard to this clarification memorandum.

In case that you do not have a copy of this memorandum before you, I will enclose a copy in this letter.

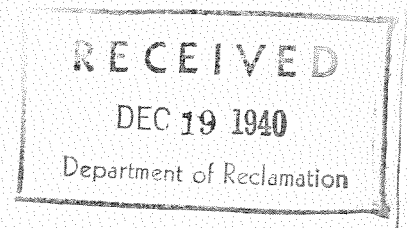
Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/nw

F. A. MILLER
ATTORNEY-AT-LAW
ST. ANTHONY, IDAHO

December 18, 1940



Mr. James Spofford
Commissioner of Reclamation
Boise, Idaho

Dear Mr. Spofford:

Since receiving your letter of the 14th, and a copy of Mr. Crandall's letter of the 16th, I have prepared and am submitting for your approval and signature a memorandum which I hope will clarify any questions in the agreement that the Wyoming parties think should be cleared up.

In the decree I prepared, the limitation of a cubic foot for each 50 acres applied only to Wyoming land owners and I think the memorandum submitted to us by them was to also limit the Idaho users who diverted in Wyoming to the same amount of stream flow.

Mr. Crandall's letter seemed to indicate that all Idaho users would be limited to 1 cubic foot for each 50 acres when the stream flow of Teton Creek was less than 170 and more than 90 cubic feet. This, I think, was not the purpose of the memorandum submitted us. The memorandum I am enclosing limits the Wyoming users as well as the Idaho users who divert in Wyoming to 1 cubic foot for each 50 acres and I think that this will be acceptable to the Wyoming parties.

As to the town of Driggs, - Driggs is diverting water from a spring in Wyoming that discharges into Teton Creek. The town has a 6-inch pipe leading from the spring to the Village and I am assured that this pipe line does not divert or will not divert 1 cubic foot per second of time. The town also is the owner of capital stock of the Grand Teton Canal and diverts a part of its water from that source. A limitation is imposed upon the diversion for the Village which is agreeable to my clients.

I believe the memorandum I am submitting you will be approved by the Wyoming parties and it is satisfactory to the litigants I represent.

Why you and the State Engineer of Wyoming are asked to sign I can account for only on the ground or reason that your offices will be charged with carrying out the terms and conditions of any adjudication that may be handed down.

If this meets your approval, I wish you would hurry it to me.

Yours very truly,


F. A. Miller

fam.en
Enclosure

Interstate

December 19, 1940

Mr. F. A. Miller
Attorney-at-Law
St. Anthony, Idaho

Dear Mr. Miller:

I am in receipt of your December 8 letter enclosing four copies of a memorandum to clarify certain points in the agreement between the Idaho and Wyoming appropriators diverting water from Teton Creek and tributaries.

This memorandum is very clearly drawn and complies with the terms of the agreement as I understand it. I am signing the four copies of this agreement and am enclosing the same for your use.

It is my understanding that this office will get a signed copy at a later time.

Very truly yours,

JAMES SPOTFORD,
Commissioner of Reclamation

JS/mw
Encl.